

§ 386.41

(c) A duty to supplement responses may be imposed by order of the Assistant Administrator or the administrative law judge or agreement of the parties.

§ 386.41 Stipulations regarding discovery.

Unless otherwise ordered, a written stipulation entered into by all the parties and filed with the Assistant Administrator or the administrative law judge, if one has been appointed, may:

(a) Provide that depositions be taken before any person, at any time or place, upon sufficient notice, and in any manner, and when so taken may be used like other depositions, and

(b) Modify the procedures provided by these rules for other methods of discovery.

§ 386.42 Written interrogatories to parties.

(a) Without leave, any party may serve upon any other party written interrogatories to be answered by the party to whom the interrogatories are directed; or, if that party is a public or private corporation or partnership or association or governmental agency, by any officer or agent, who will furnish the information available to that party.

(b) The maximum number of interrogatories served will not exceed 30, including all subparts, unless the Assistant Administrator or Administrative Law Judge permits a larger number on motion and for good cause shown. Other interrogatories may be added without leave, so long as the total number of approved and additional interrogatories does not exceed 30.

(c) Each interrogatory shall be answered separately and fully in writing under oath unless it is objected to, in which event the grounds for objection shall be stated and signed by the party, or counsel for the party, if represented, making the response. The party to whom the interrogatories are directed shall serve the answers and any objections within 30 days after the service of the interrogatories, or within such shortened or longer period as the Assistant Administrator or the Administrative Law Judge may allow.

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(d) Motions to compel may be made in accordance with § 386.45.

(e) A notice of discovery must be served on the Assistant Administrator or, in cases that have been referred to the Office of Hearings, on the Administrative Law Judge. A copy of the interrogatories, answers, and all related pleadings must be served on all parties to the proceeding.

(f) An interrogatory otherwise proper is not necessarily objectionable merely because an answer to the interrogatory involves an opinion or contention that relates to fact or the application of law to fact, but the Assistant Administrator or Administrative Law Judge may order that such an interrogatory need not be answered until after designated discovery has been completed or until a prehearing conference or other later time.

[70 FR 28483, May 18, 2005]

§ 386.43 Production of documents and other evidence; entry upon land for inspection and other purposes; and physical and mental examination.

(a) Any party may serve on any other party a request to:

(1) Produce and permit the party making the request, or a person acting on his or her behalf, to inspect and copy any designated documents, or to inspect and copy, test, or sample any tangible things which are in the possession, custody, or control of the party upon whom the request is served; or

(2) Permit entry upon designated land or other property in the possession or control of the party upon whom the request is served for the purpose of inspection and measuring, photographing, testing, or for other purposes as stated in paragraph (a)(1) of this section.

(3) Submit to a physical or mental examination by a physician.

(b) The request may be served on any party without leave of the Assistant Administrator or administrative law judge.

(c) The request shall:

(1) Set forth the items to be inspected either by individual item or category;

(2) Describe each item or category with reasonable particularity;